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STATUTORY RULES OF NORTHERN IRELAND

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**1991 No. 364**

**The Insolvency Rules (Northern Ireland) 1991**

PARTS 5 AND 6 INSOLVENCY OF INDIVIDUALS; BANKRUPTCY

PART 6

BANKRUPTCY

CHAPTER 3

BANKRUPTCY PETITION (DEBTOR'S)

**Preliminary**

**6.034.** This Chapter relates to a debtor's petition, and the making of a bankruptcy order thereon.  
[E.R.6.37]

**Identification of debtor**

**6.035.**—(1) The petition shall state the following matters with respect to the debtor—

- (a) his name, place of residence and occupation (if any);
- (b) the name or names in which he carries on business, if other than his true name, and whether, in the case of any business of a specified nature, he carries it on alone or with others;
- (c) the nature of his business, and the address or addresses at which he carries it on;
- (d) any name or names, other than his true name, in which he has carried on business in the period in which any of his bankruptcy debts were incurred and, in the case of any such business, whether he has carried it on alone or with others; and
- (e) any address or addresses at which he has resided or carried on business during that period, and the nature of that business.

(2) The particulars of the debtor given under this Rule determine the full title of the proceedings.

(3) If the debtor has at any time used a name other than the one given under paragraph (1)(a), that fact shall be stated in the petition.

[E.R.6.38]

**Admission of insolvency**

**6.036.**—(1) The petition shall contain the statement that the petitioner is unable to pay his debts, and a request that a bankruptcy order be made against him.

(2) If within the period of 5 years ending with the date of the petition the petitioner has been adjudged bankrupt, or has made a composition with his creditors in satisfaction of his debts or a scheme of arrangement of his affairs, or he has entered into any voluntary arrangement or been

subject to an administration order under Article 80 of the Judgments Enforcement (Northern Ireland) Order 1981(1), particulars of these matters shall be given in the petition.

(3) If there is at the date of the petition in force for the debtor a voluntary arrangement, the particulars required by paragraph (2) shall contain a statement to that effect and the name and address of the supervisor of the voluntary arrangement.

[E.R.6.39]

### **Statement of affairs**

**6.037.**—(1) The petition shall be accompanied by a statement of the debtor's affairs, verified by affidavit.

(2) Section B of Chapter 5 applies with respect to the statement of affairs.

[E.R.6.41]

### **Procedure for presentation and filing**

**6.038.**—(1) The petition and the statement of affairs shall be filed in court, together with 3 copies of the petition, and 2 copies of the statement. No petition shall be filed unless there is produced with it the receipt for the deposit payable on presentation.

(2) Subject to paragraph (3), the court may hear the petition forthwith. If it does not do so, it shall fix a venue for the hearing.

(3) If the petition contains particulars of a voluntary arrangement in force for the debtor, the court shall fix a venue for the hearing and give at least 14 days' notice of it to the supervisor of the voluntary arrangement; the supervisor may appear and be heard on the petition.

(4) Of the 3 copies of the petition delivered—

- (a) one shall be returned to the petitioner, endorsed with any venue fixed;
- (b) another, so endorsed, shall be sent by the court to the official receiver; and
- (c) the remaining copy shall be retained by the court, to be sent to an insolvency practitioner (if appointed under Article 247(2)).

(5) Of the 2 copies of the statement of affairs—

- (a) one shall be sent by the court to the official receiver; and
- (b) the other shall be retained by the court to be sent to the insolvency practitioner (if appointed).

(6) The affidavit verifying the debtor's statement of affairs may be sworn before an officer of the court duly authorised in that behalf.

(7) Where the court hears a petition forthwith, or it will in the opinion of the court otherwise expedite the delivery of any document to the official receiver, the court may, instead of sending that document to the official receiver, direct the bankrupt forthwith to deliver it to him.

(8) Where a petition contains a request for the appointment of a person as trustee in accordance with Article 270(4) (appointment of former supervisor as trustee) the person whose appointment is sought shall, not less than 2 days before the day appointed for hearing the petition, file in court a report including particulars of—

- (a) a date on which he gave written notification to creditors bound by the voluntary arrangement of the intention to seek his appointment as trustee, such date to be at least 10 days before the day on which the report under this paragraph is filed, and

- (b) details of any response from creditors to that notice, including any objections to his appointment.

[E.R.6.42]

### **Notice and registration of petition**

**6.039.**—(1) When the petition is filed, the court shall forthwith—

- (a) send notice of its presentation to the Enforcement of Judgments Office, and
- (b) register the petition in the Registry of Deeds in accordance with section 3A(1) of the Registration of Deeds Act (Northern Ireland) 1970(2), and
- (c) where the petition is against a solicitor, send notice of its presentation to the Law Society of Northern Ireland.

(2) The copy of the document required by section 3A(1) of the Registration of Deeds Act (Northern Ireland) 1970 to be certified by the High Court shall be certified by the Master.

(3) If at any time after the petition is filed it appears to the Master that the person by whom it is presented is the registered owner of any land, he shall give notice of the presentation of the petition to the Registrar of Titles in accordance with section 67A(1) of the Land Registration Act (Northern Ireland) 1970(3).

[E.R.6.43]

### **Dismissal or withdrawal of petition or stay of proceedings**

**6.040.**—(1) If an order is made dismissing the petition or giving leave to withdraw it, the order shall include provision permitting vacation of the registration of the petition in the Registry of Deeds and, if notice of the presentation of the petition has been given to the Registrar of Titles, permitting the cancellation of any entry in the register of the said notice and the court shall send to the debtor 2 sealed copies of the order together with the certificate required by section 3(4) of the Registration of Deeds Act (Northern Ireland) 1970, as applied by section 3A(3) of that Act, signed by the Master.

(2) If the petition is dismissed or withdrawn, or if proceedings on it are stayed, the court shall send notice of the making of the order of dismissal or stay or of the withdrawal to the Enforcement of Judgments Office.

(3) Where, on the application of the debtor, the court is satisfied that, under Article 234(6), the petition is deemed to be dismissed by reason of an interim order ceasing to have effect, it shall—

- (a) make an order permitting vacation of the registration of the petition in the Registry of Deeds and, if notice of the presentation of the petition has been given to the Registrar of Titles, permitting cancellation of any entry in the register of the said notice,
- (b) send to the debtor 2 sealed copies of the order, and
- (c) send notice of the dismissal of the petition to the Enforcement of Judgments Office.

### **Report of insolvency practitioner**

**6.041.**—(1) If the court under Article 247(2) appoints an insolvency practitioner to act in the debtor's case, it shall forthwith—

- (a) send to the person appointed—
  - (i) a sealed copy of the order of appointment, and

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(2) 1970 c.25 (N.I.) as inserted by S.I. 1989/2405 (N.I. 19), Schedule 9, paragraph 77

(3) 1970 c.18 (N.I.) as inserted by S.I. 1989/2405 (N.I. 19), Schedule 9, paragraph 72

- (ii) copies of the petition and statement of affairs,
  - (b) fix a venue for the responsible insolvency practitioner's report to be considered, and
  - (c) send notice of the venue to the responsible insolvency practitioner and the debtor.
- (2) The responsible insolvency practitioner shall file his report in court and send one copy of it to the debtor, so as to be in his hands not less than 3 days before the date fixed for consideration of the report, and a further copy to the official receiver.

(3) The debtor is entitled to attend when the report is considered, and shall attend if so directed by the court. If he attends, the court shall hear any representations which he makes with respect to any of the matters dealt with in the report.

[E.R.6.44]

### **Settlement, content and certification of bankruptcy order**

**6.042.**—(1) The bankruptcy order shall be settled by the court.

(2) The order shall—

- (a) state the date of the presentation of the petition on which the order is made, and the date and time of the making of the order, and
- (b) contain a notice requiring the bankrupt, forthwith after the service of the order on him, to attend on the official receiver at the place stated in the order.

(3) Subject to Article 88 of the Judgments Enforcements (Northern Ireland) Order 1981(4) (effect of bankruptcy on enforcement procedures), the order may include provision staying any action or proceeding against the bankrupt.

(4) Where the bankrupt is represented by a solicitor, the order shall be endorsed with the latter's name, address, telephone number, fax number (if any) and reference.

(5) The copy of the order required by section 3B(1) of the Registration of Deeds Act (Northern Ireland) 1970 to be certified by the High Court shall be certified by the Master.

[E.R.6.45]

### **Action to follow making of order**

**6.043.**—(1) The court shall forthwith after the making of the bankruptcy order—

- (a) send at least 5 sealed copies (one of which shall be certified by the Master) to the official receiver,
- (b) send one sealed copy to the Clerk of the Crown, and
- (c) where the order is made against a solicitor, send one sealed copy to the Law Society of Northern Ireland.

(2) On receiving the copy orders the official receiver shall—

- (a) forthwith send one of the uncertified copies to the bankrupt, and
- (b) subject to paragraph (3)—
  - (i) send notice of the making of the order to the Enforcement of Judgments Office,
  - (ii) register the order in the Registry of Deeds in accordance with section 3B(1) of the Registration of Deeds Act (Northern Ireland) 1970,
  - (iii) cause the order to be advertised in such newspaper as he thinks fit, and

(iv) cause the order to be gazetted.

(3) The court may, on the application of the bankrupt or a creditor, order the official receiver to suspend action under paragraph (2), pending a further order of the court.

(4) An application under paragraph (3) shall be supported by an affidavit stating the grounds on which it is made.

(5) Where an order is made under paragraph (3), the applicant shall forthwith deliver a copy of it to the official receiver.

[E.R.6.46]

### **Expenses of voluntary arrangement**

**6.044.** Where a bankruptcy order is made on a debtor's petition and there is at the time of the petition in force for the debtor a voluntary arrangement, any expenses properly incurred as expenses of the administration of the voluntary arrangement in question shall be a first charge on the bankrupt's estate.

[E.R.6.46A]

### **Amendment of title of proceedings**

**6.045.**—(1) At any time after the making of the bankruptcy order, the official receiver, the trustee or any person aggrieved may apply to the court for an order amending the full title of the proceedings.

(2) Where such an order is made, the official receiver shall forthwith—

- (a) send a sealed copy of the order to the Enforcement of Judgments Office,
- (b) send 2 sealed copies of the order (one of which shall be certified by the Master) to the Registrar of Deeds for registration, and
- (c) if the notice of the presentation of the petition or of the bankruptcy order has been given to the Registrar of Titles, send a sealed and certified copy of the order to him, for registration.

(3) If the court so directs, the official receiver shall also—

- (a) cause notice of the order to be gazetted, and
- (b) cause notice of the order to be advertised in such newspaper as he thinks appropriate.

[E.R.6.47]

### **Certificate for summary administration**

**6.046.**—(1) If the court under Article 249 issues a certificate for the summary administration of the bankrupt's estate, the certificate may be included in the bankruptcy order.

(2) If the certificate is not so included, the court shall forthwith send copies of it to the official receiver and the bankrupt.

[E.R.6.48]

### **Duty of official receiver in summary administration**

**6.047.**—(1) Where a trustee has been appointed, the official receiver shall send a copy of the certificate of summary administration (whether or not included in the bankruptcy order) to him.

(2) Within 12 weeks after the issue of the certificate the official receiver shall (insofar as he has not already done so) give notice to creditors of the making of the bankruptcy order.

[E.R.6.49]

### **Revocation of certificate for summary administration**

**6.048.**—(1) The court may under Article 249(3) revoke a certificate for summary administration, either of its own motion or on the application of the official receiver.

(2) If the official receiver applies for the certificate to be revoked, he shall give at least 14 days' notice of the application to the bankrupt.

(3) If the court revokes the certificate, it shall forthwith give notice to the official receiver and the bankrupt.

(4) If at the time of revocation there is a trustee other than the official receiver, the official receiver shall send a copy of the court's notice to him.

[E.R.6.50]